

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**AMY BRANCH,<sup>1</sup>**

**Plaintiff,**

**VS.**

**ARBY'S RESTAURANT GROUP,  
INC., et al.,**

## Defendants.

**Civil Action No. CV 12-S-677-S**

# MEMORANDUM OPINION

On June 26, 2013, the magistrate judge's report and recommendation was entered, and the parties were allowed therein fourteen (14) days in which to file objections to the recommendations made by the magistrate judge. No objections have been filed by either the plaintiff or the defendants.

After careful consideration of the record in this case and the magistrate judge's report and recommendation, the court hereby ADOPTS the report of the magistrate judge. The court further ACCEPTS the recommendations of the magistrate judge that:

(1) the Motion to Dismiss filed by defendant Arby's Restaurant Group (Doc. 46) be granted and this action dismissed with prejudice; and

<sup>1</sup> Plaintiff's name appears on the amended complaint as "Amy Branch." In subsequent filings in this case, plaintiff's name also appears as "Aimee Branch" and "Aimee Sims." For simplicity, the court will refer to plaintiff by the name in her amended complaint, Amy Branch.

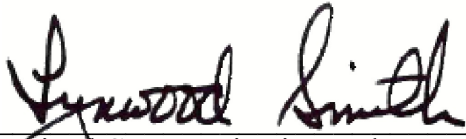
(2) the Court order plaintiff to pay Arby's Restaurant Group's reasonable expenses, including attorney's fees, caused by plaintiff's failure to attend her deposition. Defendant has submitted its specification and itemization of its fees (Doc. 54), which the Court considers in light of a previous order in this action awarding fees to defendant (Doc. 51). That order set reasonable hourly rates of \$350 for Brett Coburn and \$250 for Alexandra Barnett. Charles Morgan, lead counsel for defendant who has been practicing law for 25 years, requests a reduced hourly rate of \$425, in light of the hourly rates found reasonable for Mr. Coburn and Ms. Barnett. The Court finds that the hourly rate requested by Mr. Morgan is reasonable. Upon review of the fee request, the Court also finds that counsel for defendant reasonably expended a total of 31.3 hours preparing for plaintiff's deposition, traveling to Birmingham from Atlanta for plaintiff's deposition, and preparing and filing its Motion to Dismiss and supplemental filing based on plaintiff's failure to attend her deposition.

The Court therefore finds that defendant Arby's Restaurant Group is entitled to an award of attorney's fees in this action against plaintiff in the total amount of \$9,867.50, set out as follows:

<b>Attorney</b>	<b>Hourly Rate</b>	<b>Total Hours</b>	<b>Total</b>
Charles Morgan	\$425	.7	\$297.50
Brett Coburn	\$350	19.2	\$6720.00
Alexandra Barnett	\$250	11.4	\$2850.00

A separate order in conformity with this Memorandum Opinion will be entered contemporaneously herewith.

DONE this 12th day of September, 2013.

  
United States District Judge